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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,682	02/08/2002	Rob Lofland	CALIP008/P068	2522
22434	7590	01/18/2005	EXAMINER	
BEYER WEAVER & THOMAS LLP			WOOD, KEVIN S	
P.O. BOX 70250			ART UNIT	
OAKLAND, CA 94612-0250			PAPER NUMBER	
			2874	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/072,682	Applicant(s) LOFLAND ET AL.	
	Examiner Kevin S Wood	Art Unit 2874	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 14 and 16-47 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **FINAL REJECTION**

### ***Response to Amendment***

1. This action is responsive to the Applicant's Amendment filed 20 August 2004. Claims 1, 11-14, 16, 23, 24, 26, 27, 29, 35, 39, 40, and 42 have been amended. No claims have been cancelled. Claims 1-47 are pending in the application.

### ***Response to Arguments***

2. Applicant's arguments filed 20 August 2004 with respect to claims 1-10, 12, 13, and 15 have been fully considered but they are not persuasive. The examiner has thoroughly reviewed applicant's arguments but firmly believes the cited references to reasonably and properly meet the claimed limitations. The applicant's primary argument was that U.S. Patent Application Publication 2002/0041409 to Lahan et al. and U.S. Patent No. 6,590,644 to Coin et al. do not disclose a traffic analyzer. The applicant amended claims 1, to include a traffic analyzer and the applicant believes that claims 1-10, 12, 13, and 15 are now allowable due to the addition of the traffic analyzer. The examiner respectfully disagrees with this argument. After reviewing the Lahan et al. reference and the Coin et al. reference, it is clear that both contain traffic analyzers.

The Lahan et al. reference discloses that the traffic signal is analyzed within the equipment manager (4). See paragraph [0018] of the reference.

The Coin et al. reference clearly discloses a traffic analyzer in the form of a digital communication analyzer (130).

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3. Applicant's arguments, filed 20 August 2004, with respect to claims 11, 14 and 16-47 have been fully considered and are persuasive. The rejections/objections of claims 11-47 have been withdrawn.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 4, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0041409 to Laham et al.

Referring to claims 1, 2, 4 and 15, Laham et al. discloses all the limitations of the claimed invention. Laham et al. discloses an optical switch testing system (OSTS) for testing an device under test (DUT), the DUT (2) including a plurality of optical input ports (201-208) and a plurality of optical output ports (211-218), the system including: at least one processor; memory; a plurality of OSTS output ports, wherein a selected plurality of the OSTS output ports are each optically connected to a respective DUT input port (201-208); a plurality of OSTS input ports, wherein a selected plurality of the OSTS input ports are each connected to a respective DUT output port (211-218); an optical test stimulation (20) component configured or designed to generate optical test

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signals to be transmitted to a selected plurality input ports of the DUT; and an optical test detection component (33) configured or designed to detect a presence or absence of light on a selected plurality output ports of the DUT. See Fig. 1 through Fig. 4 of the reference, along with their respective portions of the specification. Laham et al. discloses that the DUT is a photonic optical cross-connect device (2).

2. Claims 1, 3-10 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,590,644 to Coin et al.

Referring to claims 1, 3-10 and 15, Coin et al. discloses all the limitations of the claimed invention. Coin et al. discloses an testing system for testing an device under test (DUT), the DUT (110) including a plurality of optical input ports and a plurality of optical output ports, the system including: at least one processor (70); memory (230); a plurality of testing system output ports, wherein a selected plurality of the OSTS output ports are each optically connected to a respective DUT input port; a plurality of testing system input ports, wherein a selected plurality of the testing system input ports are each connected to a respective DUT output port; an optical test stimulation (6) component configured or designed to generate optical test signals to be transmitted to a selected plurality input ports of the DUT; and an optical test detection component (80,130,170) configured or designed to detect a presence or absence of light on a selected plurality output ports of the DUT. See Fig. 1 through Fig. 14 of the reference, along with their respective portions of the specification.

***Allowable Subject Matter***

3. Claims 11, 14, and 16-47 are allowed.
4. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claim 12, the primary reason for this claim being allowable is the inclusion of the SONET traffic analyzer.

Referring to claim 13, the primary reason for this claim being allowable is the inclusion of a Gigabit Ethernet traffic analyzer.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kevin S. Wood

**ELLEN E. KIM**  
**PRIMARY EXAMINER**

